

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150  
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES\*\*

JULY 22, 2003

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, President  
Ron Alvarado, Vice President  
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. A subcommittee of the State Personnel Board met with staff to discuss plans for the state's Equal Employment Opportunity, Diversity and Outreach Program. A report and discussion is planned for the August 5, 2003, Board meeting.
- B. State Personnel Board staff has requested that the Department of Finance reestablish positions inadvertently eliminated or potential exempt from the Governor's recent Executive Order that eliminated positions vacant as of June 30, 2003.

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\*\* The State Personnel Board Summary Minutes can be obtained at the following Internet address:  
<http://www.spb.ca.gov/spbmeet/spbminrd.cfm>

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation:

- A. Pamela King v. State Personnel Board - Appellate court, in an unpublished opinion, upheld the State Personnel Board's precedential decision in this case overturning the dismissal on the grounds that the state did not prove dishonesty. The case involves interpretation of the California Medical Confidentiality Act, but the court did not rule on those issues other than to address them in dicta.
- B. Association of California State Attorneys and Administrative Law Judges (ACSA) v. Department of Personnel Administration (DPA) - State Personnel Board has filed opposition to the petitions for rehearing in this case. Court should rule by July 25, 2003.
- C. Micheltmore v. Department of Corrections (CDC); Alameida v. State Personnel Board - These cases have been filed in superior court. CDC is contesting the State Personnel Board's ability to promote an employee who had taken an examination that was declared invalid and who was unable to take advantage of the fact that his test was rescored and he was then eligible for promotion because the rescored list was replaced with a list from a new examination before it was ever used. The appellant is contesting CDC's failure to comply with the Board's order.
- D. International Union of Operating Engineers (IUOE) v. State of California, State Personnel Board (before Public Employment Relations Board (PERB)) - The first case is under submission before a PERB administrative law judge. The second case was dismissed by PERB's General Counsel, but IUOE has appealed the dismissal to the full Board.
- E. State Personnel Board v. Department of Personnel Administration (DPA), California State Employees Association (CSEA) (Post and Bid) - DPA filed an amicus brief even though DPA was a party to the case in which the trial court invalidated Post and Bid provisions of CSEA's MOU's. SPB is in the process of preparing an opposition which will be filed on or before July 25, 2003.

4. REPORT ON LEGISLATION - Sherry Hicks

No report was given

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 8, 2003

ACTION: Minutes to be presented for adoption at the August 5, 2003 Board meeting.

6. ADMINISTRATIVE LAW JUDGE CASES

On July 22, 2003, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

PROPOSED DECISIONS

JUAN CASILLAS, CASE NO. 03-1156

Appeal from dismissal

Psychiatric Technician Assistant

Sonoma Developmental Center

Department of Developmental Services

ACTION: Dismissal modified to a two-step reduction in salary for six months

JOSEPH ISAACS, CASE NO. 02-1152

Appeal from dismissal

Youth Correctional Officer

Department of the Youth Authority

ACTION: Dismissal sustained

EDDIE H. LAU, CASE NO's 02-1153 and 02-0875E

Appeal from dismissal and complaint under the California Whistleblower Protection Act  
Utilities Engineer

California Public Utilities Commission

ACTION: Dismissal sustained and complaint under the California Whistleblower Protection Act denied

RANDOLPH MORELAND, CASE NO. 03-0142

Appeal from demotion

Correctional Sergeant to Correctional Officer

Ione State Prison

Department of Corrections

ACTION: Demotion sustained

RALPH PETERS, CASE NO. 03-0142  
Appeal from Official Reprimand  
Youth Correctional Officer  
Department of the Youth Authority  
ACTION: Official reprimand revoked

SHERI TEDISCO, CASE NO. 03-1153  
Appeal from thirty-calendar day  
suspension  
Motor Vehicle Field Representative  
Department of Motor Vehicles  
ACTION: Thirty-calendar day suspension modified to a ten  
calendar day suspension

CHESTER WILLIAMS, CASE 02-4189  
Appeal from dismissal  
Correctional Officer  
Delano - State Prison  
Department of Corrections  
ACTION: Dismissal sustained

STEVEN GRIFFIN, CASE NO. 02-2687  
Appeal from dismissal  
Mechanical Engineering Technician II  
Department of Transportation  
ACTION: Dismissal sustained

COLLEEN HENDON-GREEOTT, CASE NO. 02-4078  
Appeal from 10 working days suspension  
Accounting Technician III  
California State University, Sonoma  
ACTION: Ten working days suspension sustained

PETITIONS FOR REHEARING

BRYAN BAILEY, CASE NO. 02-2389P  
Appeal of reasonable accommodation  
Structural Design Technician II  
Department of Transportation  
ACTION: Petition for rehearing filed by appellant denied

RODERICK CARTWRIGHT, CASE NO. 02-4312P  
Appeal of rejection during probation  
Workers Compensation Insurance Technician  
State Compensation Insurance Fund  
ACTION: Petition for rehearing filed by appellant denied

WILLIAM FORT, CASE NO. 02-1668P

Appeal from dismissal

Office Assistant (General)

Consumer Affairs

ACTION: Petition for rehearing filed by appellant denied

MELVIN MITCHELL, CASE NO. 02-1757P

Appeal from dismissal

Office Assistant (Typing)

Employment Development Department

ACTION: Petition for rehearing filed by appellant denied

DANIEL PANCOAST, CASE NO. 01-4151P

Appeal from rejection during probation

Correctional Officer

Department of Corrections

ACTION: Petition for rehearing filed by respondent denied

KATHIE SCHIEVELBEIN, CASE NO. 02-2250P

Appeal from rejection during probation

Senior Environmental Planner

Department of Transportation

ACTION: Petition for rehearing filed by appellant denied

MONIQUE SIDAROSS, CASE NO. 02-1148P

Appeal from 10 working days suspension

Transportation Engineer (Civil)

Department of Transportation

ACTION: Petition for rehearing filed by appellant denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 14-17.

8. WITHHOLD APPEALS

On July 22, 2003, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

SCOTT BRITT, CASE NO. 02-3397

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

GARY COOK, CASE NO. 02-4247  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

ROBERTA GIBSON, CASE NO. 02-3408  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DENIED

ERIK GROVE, CASE NO. 02-1380  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

GREGORY HILL, CASE NO. 02-3413  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DISMISSED

KENDALL KUHNS, CASE NO. 02-4324  
Classification: Youth Correctional Officer  
California Youth Authority  
ACTION: DENIED

CHRISTOPHER LEE, CASE NO. 02-4372  
Classification: Youth Correctional Officer  
California Youth Authority  
ACTION: DENIED

ANTJUAN MARTIN, CASE NO. 02-4348  
Classification: Youth Correctional Officer  
California Youth Authority  
ACTION: DENIED

KRISTINA MCGILLIVRAY, CASE NO. 02-4454  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

ARIANA MERLINO, CASE NO. 02-2879  
Classification: Public Utilities Regulator  
Analyst III  
Public Utilities Commission  
ACTION: DENIED

TRAVIS MILLER, CASE NO. 02-4464  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MARTIN MUNOZ JR., CASE NO. 02-4453  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

RICKY PENA, CASE NO. 02-4416  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

DERONE PUGH, CASE NO. 02-4418  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MARINA RIVERA, CASE NO. 02-4415  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANT

MITCHELL ROMERO, CASE NO. 02-4226  
Classification: Medical Technical  
Assistant - CF  
Department of Corrections  
ACTION: DENIED

CATHERINE SALAZAR, CASE NO. 02-3441  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

ALBERT SUMMERVILLE, CASE NO. 02-4227  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

MICHAEL TATE, CASE NO. 02-2668  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANT

JOVAN WALKER, CASE NO. 02-3442  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DENIED

9. MEDICAL APPEALS

On July 22, 2003, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

ALLISON ETHERIDGE, CASE NO. 03-1168  
Classification: Correctional Officer  
Department of Corrections  
ACTION: DISMISSED

RYAN HEASTY, CASE NO. 02-4170  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: DISMISSED

10. REQUEST TO FILE CHARGES CASES

On July 22, 2003, the Board adopted the following decisions presented by Laura Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

FRANK BORUNDA, CASE NO. 02-1515  
RUSSELL BROOKS, CASE NO. 02-1517  
Classification: Both employees of the  
Department of Transportation  
ACTION: DENIED

MARCUS CAZARES, CASE NO. 01-3134  
Classification: A member of the public  
State Compensation Insurance Fund  
ACTION: DENIED

JOHN DURAN, CASE NO. 02-3537  
Classification: A member of the public  
Department of Developmental Services  
ACTION: DENIED

ALAN ENGLE, CASE NO. 02-4364  
Classification: Vocational Welding Instructor, CF  
Department of Corrections  
ACTION: DENIED

ANGELA JORDAN, CASE NO. 02-2458  
Classification: Correctional Lieutenant  
Department of Corrections  
ACTION: DENIED

HAROLD OVERSTREET, CASE NO. 02-1481  
Classification: An employee of the  
Department of Corrections  
ACTION: DENIED

SHIRLEY SCOTT, CASE NO. 02-4139  
Classification: Office Technician (Typing)  
Department of Insurance  
ACTION: DENIED

11. NON-HEARING CALENDAR

On July 22, 2003, the Board adopted item A. This item was presented by Karen Coffee, Chief, Merit Employment and Technical Resources Division, California State Personnel Board.

VOTE: Elkins, Alvarado, Tom - Aye.

A. LAND AND WATER USE SERIES

STAFF LAND AND WATER USE SCIENTIST

The Department of Water Resources (DWR) on behalf of all user departments, proposes to re-title the Land and Water Use classification series, update the series specification, and add a Staff Land and Water Use Scientist level to the series. In addition, DWR proposes to revise the minimum qualifications of the class series to require a college degree with a major in one of several identified academic areas in order to better reflect the educational requirements necessary for successful job performance due to the expanding duties and responsibilities of the class series.

12. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) COMMUNICATIONS DIRECTOR, PUBLIC AFFAIRS OFFICE

The Department of Conservation proposes to allocate the above position to the CEA category. The Communications Director, Public Affairs Office is responsible for ensuring that all DOC

communications meet the standards and requirements of the Resources Agency and the Governor's Office, and the needs of the Department.

CORRECTION TO THE JUNE 17, 2003 BOARD CALENDAR

(1) GENERAL COUNSEL

The California Public Employee's Retirement System requests to allocate the position of General Counsel to the CEA category. The General Counsel is responsible for establishing policy regarding corporate governance, audits, securities litigation, investments, fiduciary obligations, constitutional authority, and conflicts of interest.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) CHIEF, DEPARTMENTAL SERVICES BUREAU

The Department of Justice's request to allocate the above position to the CEA category has been approved effective June 26, 2003.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. MERIT RULE - Proposed adoption of the new Section 250 to the California Code of Regulations (CCR) entitled Requirement that Selection be Based on Merit and Fitness. (Hearing held July 23, 2002).

NO ACTION

2. TEACHER STATE HOSPITAL (SEVERLY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

3. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002).

NO ACTION

4. ANSWERS OR APPEALS FILED WITH STATE PERSONNEL BOARD  
State Personnel Board (SPB) staff is proposing to adopt new Rule 63 to require, in part, that answers or appeals filed with SPB, requesting that a hearing or investigation be conducted by SPB, notify the responding party of all planned affirmative defenses and requests for relief. (Hearing held February 3, 2003).

NO ACTION

5. BARBARA LENOUE, CASE NO. 01-3441. Appeal from dismissal. Department of Developmental Services. (Oral argument held March 4, 2003).

NO ACTION

6. TELEVISION SPECIALIST (SAFETY)  
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003).

NO ACTION

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7. JOHN HUGHES, CASE NO. 01-4078. Appeal from ten-percent reduction in salary for 12 months. Department of Corrections. (Oral argument held April 8, 2003).

NO ACTION

8. VAROOZH TORROSSIAN, CASE NO. 02-1147. Appeal from non-punitive termination. Department of Transportation. (Oral argument held April 8, 2003).

NO ACTION

9. DEBORAH WHITE-SANBORN, CASE NO. 02-1155P. Appeal from dismissal. Department of Developmental Services. (Oral argument held May 6, 2003).

NO ACTION

10. RICHARD SINCLAIR, CASE NO. 01-3902. Appeal from 60-calendar day suspension. Department of Corrections. (Oral argument held May 6, 2003).

NO ACTION

11. PSC NO. 03-01  
Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's December 24, 2002 Approval of a Contract (Contract) for legal services between the California Department of Food and Agriculture (CDFA) and the law firm of Steefel, Levitt & Weiss. (Hearing held May 6, 2003).

ACTION: Adopted on July 22, 2003.

VOTE: Elkins, Alvarado, Tom - Aye.

12. CAROLYN HYMAN-PERRY, CASE NO. 00-0140. Appeal from dismissal. Department of the Youth Authority. (Hearing held June 3, 2003).

NO ACTION

13. LAWRENCE SCHAEFER, CASE NO. 02-0079. Appeal from 60 calendar days suspension and position reassignment. HARRY MILLER, CASE NO. 02-0160. Appeal from demotion and position reassignment. Department of Corrections. (Hearing held June 3, 2003).

NO ACTION

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14. PSC NO. 03-02  
Appeal of the California State Employees Association (CSEA) from the Executive Officer's January 15, 2003 Approval of a Contract (Contract) for nursing services between the California Department of Corrections (CDC) and Best Rehabcare Services, Inc. (Hearing held July 8, 2003).

NO ACTION

15. PSC NO. 03-03  
Appeal of the Department of Veterans Affairs (DVA) from the Executive Officer's February 11, 2003 Disapproval of a Contract (Contract) for with Communications Consulting Group. The California State Employees Association (CSEA) requested reviewing the contract. (Hearing held July 8, 2003).

NO ACTION

16. ADRIENNE HAAPALA, CASE NO. 01-0550E. Appeal from discrimination based on age and gender, and retaliation. Department of Corrections. (Oral argument held July 8, 2003).

NO ACTION

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

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I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on July 22, 2003.

VOTE: Elkins, Alvarado, Tom - Aye

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board